

UNITED STATES DISTRICT COURT
IN THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

NC-WC LP
Plaintiff

v

Civil Case No. 3:06-cv-440 WKW-SRW

DAVID STIVARIUS *et, al.*
defendants

RESPONSE TO COURT'S ORDER TO SHOW CAUSE

On December 28, 2006 Plaintiff through its attorney filed a motion and proposed order for entry of judicial foreclosure. On January 9th, 2007 this Court ordered that on or before January 23, 2007 the defendants shall show cause in writing why the motion should not be granted and the Plaintiff's proposed order for entry of judicial foreclosure should not be entered. Defendant Internal Revenue Service on January 23, 2007 filed a response that it had no objection to the foreclosure and further clarified its consent in its supplemental response filed on January 25, 2007. No other defendant filed a response. Plaintiff then filed a notice of judicial foreclosure with the Court on January 31, 2007 attaching the notice of mortgage foreclosure sale advertisement and all parties were served with this notice. An amended notice of judicial foreclosure was filed on February 13, 2007 and all parties were served with this notice. A report of the sale was then filed with the Court and all parties were served. On April 27, 2007 this Court denied the still pending Motion for Entry of Judicial Foreclosure as moot. The Plaintiff's attorney was apparently mistaken in his understanding that the motion was granted by virtue of the fact that no objections were filed. In fact, the Defendant's attorneys were contacted subsequent to this Court's order of April 27, 2007 and each was under the same understanding as Plaintiff's attorney.

Attached to Plaintiff's previous motions (documents numbers 28 and 29) are Defendants' confirmations of the sale and their lack of an objection to the Court's entry of an order judicial foreclosure and confirmation of the mortgage sale conducted on March 21, 2007.

Plaintiff respectfully requests this Court to enter a consent order confirming the sale of March 21, 2007 in accordance with the parties consent to and confirmation of the mortgage sale.

Respectfully Submitted,

s/ Gary S. Olshan
Gary S. Olshan P.C. by Gary S. Olshan (OLS001)
P O Box 131145
Birmingham, Al, 35213
(205) 313-2565